

Chapter V

Adjustments for Selected Special Factors and Annual Updating Method

This Chapter discusses the formulaic adjustments for special factors in the Michigan Formula that could be affected if the estimates of child-rearing expenditures underlying the current Formula were updated. Specifically, it discusses the following factors:

- ✓ age of the child;
- ✓ the child's health-related expenses;
- ✓ low-income noncustodial parents;
- ✓ high-income cases;
- ✓ adjustments for other minor children and stepchildren; and,
- ✓ adjustments for shared-parenting time;

As is, Michigan's approach to most of these factors differs from the approaches used by most states. This chapter also reviews the method for annually updating the Formula.

AGE OF THE CHILD

The existing Michigan Formula is based on child-rearing expenditures for children age 12-17 years old. In making this recommendation, the original Child Support Guidelines Committee considered Dr. Espenshade's finding that older children cost more than younger children.⁵³ The committee considered two options:

- ✓ a child support schedule with differing amounts for young and old children; and,
- ✓ applying the amounts for older children to both young and old children.

The Committee concluded the latter would be appropriate because the higher amounts applied to young children would offset "incidental child care costs." The Committee's report defined these as child care costs required so the custodial parent could attend to other obligations outside the home such as doctor's appointments.

⁵³ 1984-86 Michigan Child Support Guidelines Committee (1986).

More recent estimates of child-rearing costs are less conclusive that older children cost more. Exhibit V-1 is adapted from Dr. Betson's discussion of his most recent economic estimates of child-rearing costs.⁵⁴ It shows that the estimates of child-rearing expenditures developed using USDA and Engel methodologies indicate that older children are more expensive than younger children. For example, the Espenshade-Engel estimates indicate that older children (12-17 years old) cost 47 percent more than younger children (0-5 years old). The Espenshade-Engel estimates are what the original Michigan child support commission considered. The 2000 Betson-Engel estimates also show a large gap between older and younger children: older children cost 52 percent more, but Dr. Betson did not find this difference to be statistically significant.⁵⁵

Exhibit V-1 Relative Costs of Younger and Older Children ^a				
	Costs Relative to Mid-Age Children			Older Children Relative to Younger Children
	Young Children (0-5 years old)	Mid-Age Children (6-11 years old)	Older Children (12-17 years old)	
USDA Methodology				
• 1999 USDA Report	99%	100%	109%	110%
• 2000 Betson	98%	100%	103%	105%
Engel Methodology				
• Espenshade	72%	100%	106%	147%
• 1990 Betson	82%	100%	116%	141%
• 2001 Betson	71%	100%	108%	152%
Rothbarth Methodology				
• 1990 Betson	97%	100%	95%	98%
• 2001 Betson	95%	100%	87%	92%

^aAdapted from David Betson, "Parental Expenditures on Children" in *Review of Statewide Uniform Child Support Guidelines 2001*.

⁵⁴ David Betson (2001)

⁵⁵ When the results from the multivariate regression analysis used to estimate child-rearing expenditures are converted to percentages relative to the expenditures to a child age 6-11 years old, as they are expressed in Exhibit V-1, there appears to be a large difference, but there is no statistical difference in the regression coefficients used to generate those percentages. The statistical test is an F-test applied to the coefficients of the dummy variables representing the children's ages in a multivariate regression equation used to estimate the budget share of food at home in the Engel model and the log of adult clothing expenditures in the Rothbarth model. The dummy variables are: proportion of the family whose age is less than 3 years old; proportion of the family aged 3 to 5 years old; proportion of the family aged 6 to 12 years old; proportion of the family aged 13 to 15 years old; and the proportion of the family aged 16 and 17 years old. (There are several other age variables to represent adults, one of these is the omitted dummy variable necessary for conditions of regression analysis.) In the Engel model, only the dummy variable for children less than 3 years old is statistically significant from zero; whereas the remainder of the child age variables are not statistically different than zero. Given that they are not statistically different than zero, it is not surprising that the F-test found no statistical difference between all children ages. Similar results were found in the other regression analyses used to estimate the other models.

The Betson-Rothbarth estimates show that older children cost less than younger children, but Dr. Betson believes this is an artifact of how the CEX reports expenditures on clothing compounded by adult clothing being a key expenditure category for separating children and adult expenditures in the Rothbarth methodology. Adult clothing and clothing for children age 16-17 are co-mingled in the CEX data, which is the data set Dr. Betson uses to develop his estimates. Nonetheless, the difference between older and younger children for the Rothbarth estimates is statistically insignificant.

In conclusion, at the time when the original Michigan guidelines committee made its recommendation, the best evidence of child-rearing costs suggested that older children cost more. The new evidence is less conclusive. Dr. Betson found that there were no statistical differences between older and younger children for both his Engel and Rothbarth estimators. Given the statistical insignificance, it would be inappropriate to make age adjustments for child support schedules based on either of these estimators. (The results of guidelines schedules based on these estimators for children ages 0-17 years old are shown in Exhibits II-3 through II-7 in Chapter II). An adjustment could be appropriately made to the USDA estimates, however, for older children. To age-adjust them would require inflating the USDA amounts displayed in Exhibits II-3 through II-7 by 109 percent. This would widen the gap between the child support amounts based on the USDA estimates and the existing Michigan Formula. Without the adjustment, the order amounts based on the USDA estimates are already considerably more than those under the existing Michigan Formula.

Age Adjustments in Other State Guidelines

A handful of other states provide separate schedule amounts for younger and older children (e.g., District of Columbia, Maine, Massachusetts, and Washington). Other states include it as a deviation criterion (e.g., Arizona and Wyoming). We know of no other state that has done what Michigan has done; that is, base its entire schedule on child-rearing expenditures for older children only.

CHILDREN'S HEALTH CARE EXPENSES

There are three components to the children's health care costs that are typically considered in a state's child support guidelines calculation.

- ✓ the out-of-pocket expense for the children's health insurance premium;
- ✓ ordinary medical expenses (e.g., band-aids, co-pays, and over-the-counter medicine); and,
- ✓ extraordinary medical expenses (e.g., orthodontia; durable medical equipment that is not reimbursable through insurance; and, emergency visits to hospitals not in the network covered by the health insurance plan).



Health Insurance Premium

The existing Michigan Formula subtracts the child's portion of the health insurance premium from the parent who provides the health insurance. Exhibit V-2 shows that this is the second most common treatment among states, 14 states subtract the health insurance premium from the parent's income prior to calculating the support order. There are eight Income Shares States (including Michigan) that subtract it. Most Income Shares States treat the child's share of the health insurance premium as an add-on to the basic obligation, similar to extraordinary medical expenses and child care. In all, this is the treatment in 26 states.

This is more consistent with the Income Shares model and the estimates of child-rearing expenditures in intact families. In converting his estimates of child-rearing expenditures into a format suitable for the use in child support guidelines, Dr. Betson subtracts all but ordinary medical expenses from child-rearing expenditures. This is subtracted from the proportion of total net income spent on the child. It is not subtracted from the parent's income. As a result, it is more consistent to treat the children's health insurance premium as an add-on and prorate it between the parents, than to subtract it from parent's income in the calculation of the child support order. In short, it is consistent to treat it as an add-on similar to extraordinary medical expenses and child care expenses.

Table V-2 State Treatment of the Child's Health Insurance Premium			
STATE	GUIDELINES MODEL	TREATMENT	FORMULA
Alabama	Income Shares	Formula	Share of Obligation
Alaska	Percentage-of-Obligor Income	Formula	50/50
Arizona	Income Shares	Formula	Share of Obligation
Arkansas	Percentage-of-Obligor Income	Formula	Share of Obligation
California	Income Shares	Formula	Share of Obligation
Colorado	Income Shares	Formula	Share of Obligation
Connecticut	Income Shares	Formula	Share of Obligation
Delaware	Melson	Formula	Share of Obligation
District of Columbia	Hybrid	Formula	Subtracted from Income
Florida	Income Shares	Formula	Share of Obligation
Georgia	Percentage-of-Obligor Income	Deviation	None
Hawaii	Melson	Formula	Subtracted from Income
Idaho	Income Shares	Outside of obligation, but also a deviation criterion	Not included in child support
Illinois	Percentage-of-Obligor Income	Formula	Subtracted from Income
Indiana	Income Shares	Formula	Share of Obligation
Iowa	Income Shares	Formula	Subtracted from Income
Kansas	Income Shares	Formula	Share of Obligation
Kentucky	Income Shares	Formula	Subtracted from Income
Louisiana	Income Shares	Formula	Share of Obligation

Table V-2
State Treatment of the Child's Health Insurance Premium

STATE	GUIDELINES MODEL	TREATMENT	FORMULA
Maine	Income Shares	Formula	Share of Obligation
Maryland	Income Shares	Formula	Subtracted from Income
Massachusetts	Hybrid	Formula	50/50
Michigan	Income Shares	Formula	Subtracted from Income
Minnesota	Percentage-of-Obligor Income	Formula	Share of Obligation
Mississippi	Percentage-of-Obligor Income	Not addressed	None
Missouri	Income Shares	Formula	Share of Obligation
Montana	Melson	Formula	Share of Obligation
Nebraska	Income Shares	Formula	Subtracted from Income
Nevada	Percentage-of-Obligor Income	Deviation	None
New Hampshire	Percentage-of-Obligor Income	Formula	Subtracted from Income
New Jersey	Income Shares	Formula	Share of Obligation
New Mexico	Income Shares	Formula	Share of Obligation
New York	Percentage-of-Obligor Income	Outside of obligation	Not included in child support
North Carolina	Income Shares	Formula	Share of Obligation
North Dakota	Percentage-of-Obligor Income	Formula	Subtracted from Income
Ohio	Income Shares	Formula	Share of Obligation
Oklahoma	Income Shares	Formula	Share of Obligation
Oregon	Income Shares	Formula	Share of Obligation
Pennsylvania	Income Shares	Formula	Share of Obligation
Rhode Island	Income Shares	Formula	Subtracted from Income
South Carolina	Income Shares	Formula	Share of Obligation
South Dakota	Income Shares	Formula	Share of Obligation
Tennessee	Percentage-of-Obligor Income	Upward Deviation	None
Texas	Percentage-of-Obligor Income	Upward Deviation	None
Utah	Income Shares	Formula	50/50
Vermont	Income Shares	Formula	Subtracted from Income
Virginia	Income Shares	Formula	Share of Obligation
Washington	Income Shares	Formula	Share of Obligation
West Virginia	Income Shares	Formula	Share of Obligation
Wisconsin	Percentage-of-Obligor Income	Not addressed	None
Wyoming	Income Shares	Formula	Subtracted from Income
TOTAL NUMBER OF STATES	Income Shares = 33	Formula=43	Share of Obligation = 27
	Percentage-of-Obligor Income = 13	Deviation= 4	Subtracted from Income = 13
	Melson = 3	Outside of obligation=2	50%-50% = 3
	Hybrid = 2	Not addressed = 2	No formula specified/addressed = 8

Ordinary and Extraordinary Medical Expenses

Most Income Shares states make a distinction between the child's ordinary and extraordinary medical expenses for practical reasons. All children are likely to require some expenses for ordinary medical needs (e.g., doctor visit co-pays and over-the-counter medicine). Yet, not all children have extraordinary medical expenses. These include uninsured health expenses for illnesses or conditions that occur among some children but not all children (e.g.,



orthodontia, asthma treatments and durable medical equipment). Extraordinary medical expenses can be highly variable. Due to these distinct differences, many state child support guidelines treat these types of medical expenses differently in the calculation of child support.

Extraordinary Medical Expenses

Several states address the child's extraordinary medical expenses, which are broadly defined as reasonable uninsured medical expenses. Examples of extraordinary medical expenses include orthodontia, asthma treatments and eye care. Extraordinary medical expenses are frequently separated from basic child-rearing expenditures because they can be readily identified, they are highly variable, and they represent non-discretionary expenditures on children. Most states that address extraordinary medical expenses treat it similar to the way it is treated in the Michigan Formula; that is, apportion it between the parents according to income.

Table V-3 Treatment of the Child's Extraordinary Medical Expenses in Child Support Formulas			
STATE	TREATMENT	EXTRAORDINARY MEDICAL EXPENSES DIVIDED BETWEEN PARENTS BY...	THRESHOLDS FOR EXTRAORDINARY MEDICAL EXPENSES
Alabama	Deviation	not defined	\$200/year/family of four
Alaska	Formula	50/50	\$1-\$5,000/year
Arizona	Deviation	prorating	\$250 per child per year
Arkansas	Deviation	not specified	not specified
California	Deviation	not specified	not specified
Colorado	Formula	prorating	\$100/single illness
Connecticut	Formula	prorating	\$100/year
Delaware	Not addressed	not applicable	
District of Columbia	Deviation	not specified	not specified
Florida	Deviation	not specified	not specified
Georgia	Deviation	not specified	not specified
Hawaii	Deviation	not specified	not specified
Idaho	Outside of obligation	prorating	not specified
Illinois	Deviation	not specified	not specified
Indiana	Formula	prorating	6% of Basic Obligation
Iowa	Formula	prorating	\$250/child
Kansas	Formula	prorating	not specified
Kentucky	Deviation	not specified	not specified
Louisiana	Formula	prorating	\$100/single illness
Maine	Formula	prorating	\$150/year/child
Maryland	Formula	prorating	\$100/single illness
Massachusetts	Deviation	not specified	\$100/child/year
Michigan	Formula	prorating	not specified
Minnesota	Formula	prorating	not specified

Table V-3
Treatment of the Child's Extraordinary Medical Expenses in Child Support Formulas

STATE	TREATMENT	EXTRAORDINARY MEDICAL EXPENSES DIVIDED BETWEEN PARENTS BY...	THRESHOLDS FOR EXTRAORDINARY MEDICAL EXPENSES
Mississippi	Deviation	not specified	not specified
Missouri	Formula	prorating	\$100/year/child
Montana	Formula	prorating	not specified
Nebraska	Deviation	prorating	not specified
Nevada	Formula	50/50	not specified
New Hampshire	Deviation	not specified	not specified
New Jersey	Formula	prorating	\$250/year/child
New Mexico	Formula	prorating	\$100/year/child
New York	Formula	prorating	not specified
North Carolina	Formula	prorating	\$100/year
North Dakota	Deviation	not specified	not specified
Ohio	Deviation	not specified	\$100/child/year
Oklahoma	Deviation	prorating	not specified
Oregon	Formula	prorating	\$250/year/child
Pennsylvania	Formula	prorating	\$250/year/child
Rhode Island	Deviation	not specified	not specified
South Carolina	Deviation	prorating	\$250/year/child
South Dakota	Formula	prorating	\$250/year/child
Tennessee	Deviation	not specified	not specified
Texas	Deviation	not specified	not specified
Utah	Formula	50/50	not specified
Vermont	Formula	prorating	\$200/year
Virginia	Formula	prorating	\$100/single illness
Washington	Formula	prorating	5% of basic obligation
West Virginia	Formula	prorating	\$250/year/child
Wisconsin	Not addressed	Not applicable	
Wyoming	Deviation	not specified	not specified
TOTAL NUMBER OF STATES	Formula=26	Prorating = 28	Defined = 24
	Deviation=22	50/50 = 3	Not Specified = 27
	Outside of obligation=1	No formula specified = 20	
	Not addressed = 2		

Ordinary Medical Expenses

Most Income Shares states including Michigan address the children's ordinary medical expenses. The Michigan Formula specifies that this is to cover nonprescription medications, vitamins and bandages purchased by the household on a routine bases. Proof of ordinary expenditures is not necessary, whereas proof of extraordinary medical expenditures is required in most states. This is an important distinction between ordinary and extraordinary medical expenses due to practicality. With this distinction between ordinary and

extraordinary medical expenses, parents need not track every single medical expenditure made on the child, only those that classify as extraordinary.

Michigan's Approach. The Michigan approach to the child's ordinary medical expenditures is unique among all states. The existing Michigan Formula add a defined amount for "ordinary health care expenditures" to the obligor's share of the base support. The tables of Total Child Support (i.e., tables that show the base support and marginal percentage) do not include any medical expenses for the child. The amount to be added varies by the number of children, from \$3.00 per week for one child up to \$10.50 per week for five children. The source of these dollar amounts is unknown. Although they are not incorporated in the base support, these amounts are incorporated into the child support schedules provided in Appendix C of the *Michigan Child Support Formula*. Because they are added after the obligor's share of the base support is calculated, the obligor essentially pays the same amount for the ordinary health care costs regardless of what obligee income may be. Nonetheless, the Michigan Formula assumes that the custodial parent pays an equivalent amount on the child for ordinary medical expenses. So, the custodial parent is also assumed to spend \$3.00 per week for one child's ordinary medical expenses, \$10.50 per week for five children's ordinary medical expenses and so forth.

Approach in Other States. Most Income Shares States incorporate a small amount for ordinary medical expenses in the base support amount. In early Income Shares Schedules, that amount was \$100 per child per year. In the last few years, that amount has been increased to \$250 per child per year. The latter amount approximates annual out-of-pocket medical expenditures on children.⁵⁶ The net effect of incorporating ordinary medical expenses into the base support is that it is apportioned according to each parent's income along with base support. Recall that this is not the case with the current Michigan approach.

Why do Michigan and most Income Shares States differ? Although we do not have perfect knowledge of the history of how the Michigan Formula was developed, it appears that the early Michigan Guidelines Commission debated whether or not to include all of the child's medical expenses in the base support obligation. Further, the amount the early Commission attributed to the child's medical expenses and the amount that was subtracted for the child's medical expenses in the prototype Income Shares model differ. On the one hand, this may suggest that the Commission believed that the child's ordinary medical expenses differed from what appears in the prototype schedule. On the other hand, it may suggest that the

⁵⁶M. McCormick, R. Weinick, A. Elixhauser, et al., "Annual Report on Access to and Utilization of Health Care for Children and Youth in the United States—2000." *Ambulatory Pediatrics*, 1(1):January-February 2001. (Agency for Healthcare Research and Quality 01-R036)

Commission acted upon this issue prior to the National Child Support Guidelines Project developing recommendations pertaining to ordinary medical expenses. The distinction between ordinary and extraordinary medical expenses was not made in the Project's interim report which is what the Michigan Guidelines Commission worked from, but was made later in the final report, released after the Michigan Guidelines Commission had made its recommendations.

Distinction between Ordinary and Extraordinary Medical Expenses

The simplest distinction between ordinary and extraordinary medical expenses is a dollar amount. Table V-3 shows that 24 states use a dollar threshold to define child's extraordinary expenses. Most of these states set the threshold at \$100 or \$250 dollars per year per child. The amount usually reflects the amount of unreimbursed medical expenses that were retained in the child-rearing costs to develop the state's child support tables. All unreimbursed medical expenses beyond that threshold are subtracted from the child-rearing costs that appear in the child support tables. The amount retained is considered ordinary medical expenses, such as non-prescription medications and co-pays.

States that have updated their tables in the past five years set the threshold for extraordinary medical at \$250 per year per child. This approximates average out-of-pocket expenses for co-pays and other ordinary medical expenses. Extant child support tables developed over five years ago typically set the threshold for extraordinary medical expenses at \$100 per year per child. The Michigan Formula does not define a threshold for extraordinary medical expenses.

Examples of how these thresholds are used to define the child's extraordinary medical expenses are provided in Figure V-4 for South Carolina, West Virginia and New Jersey.

Recommendations of the Medical Child Support Working Group

The 2000 Medical Child Support Working Group's Report to the Secretary of the Department of Health and Human Services made 76 recommendations regarding medical child support.⁵⁷ The recommendations focus on making sure the child is appropriately covered by health insurance, particularly with regards to the comprehensiveness of the insurance plan; access to services; and, affordability. The Working Group recommends that

⁵⁷ The Medical Child Support Working Group *21 Million Children's Health: Our Shared Responsibility*, Report to the Secretary of the Department and Health and Human Services and the Secretary of the Department of Labor. Available at the Federal Office of Child Support Enforcement website: http://www.acf.dhhs.gov/programs/cse/rpt/medrpt/excecutive_summary.htm (June 2000).

this can be accomplished through obtaining information about the health insurance plans available to both parents and the State Child Health Insurance Program (SCHIP), and then making an assessment as to which health insurance would be the most appropriate. As is evident by the topics at many recent professional child support enforcement conferences, states are struggling with how to develop assessment tools and procedures and other things necessary to implement this recommendation. Some states may include this assessment in their guidelines, still others may include it in their administrative rules. At this point, this is unknown. Developing the tools to conduct this assessment, however, goes beyond the scope of this study. This study focuses on how the calculation of the support order amount is affected by new economic evidence on child-rearing costs.

Figure V-4

Examples of Definitions of the Child's Extraordinary Medical Expenses

South Carolina [Department of Social Services, Child Support Enforcement Division, *South Carolina Child Support Guidelines Handbook*. Department of Social Services, Columbia, South Carolina (1999 Edition)]

[Extraordinary medical expenses are] defined as reasonable and necessary uninsured medical expenses in excess of \$250 per year per child.

West Virginia [*West Virginia Legislative Rules*: 48A-1A-17]

'Extraordinary medical expenses' means uninsured medical expenses in excess of two hundred fifty dollars per year per child which are recurring and can reasonably be predicted by the court or master at the time of establishment or modification of a child support order. Such expenses shall include, but not be limited to, insurance copayments and deductibles, reasonable costs for necessary orthodontia, dental treatment, asthma treatments, physical therapy, vision therapy and eye care, and any uninsured chronic health problem. Nonrecurring or subsequently occurring uninsured medical expenses in excess of two hundred fifty dollars per year per child shall be separately divided between the parties in proportion to their adjusted gross incomes.

New Jersey [*New Jersey Court Rule* §5:6A(9c)]

Predictable and Recurring Unreimbursed Health Care Expenses in Excess of \$250 Per Child Per Year— Unreimbursed health-care expenses for a child in excess of \$250 per child per year are not included in the schedules. Such expenses should be added to the basic obligation if they are predictable and recurring. Health-care expenses for a child that exceed \$250 per child per year that are not predictable and recurring should be shared by the parents in proportion to their relative incomes as incurred (i.e., the sharing of these expense should be addressed in the general language of the order or judgment). Health care costs that are not included in the support award should be paid directly to the parent who made or will make the expenditure or directly to the

The Working Group makes only general recommendations about how the child's health care costs should be factored into the child support order calculation. Specifically, it recommends that

- ✓ child support guidelines should show how the costs of health care coverage will be allocated between the parents (Recommendation 2); and,
- ✓ to the extent that unreimbursed costs are not included in the State's basic child support guidelines formula, those costs should be apportioned pro rata between the parties (Recommendation 22).

In developing Recommendation 22, the Working Group acknowledges that ordinary medical expenses (e.g., band-aids and aspirin) are relatively trivial and allowances for them are built into most States' basic child support guidelines. Nonetheless, the Working Group emphasizes it is important to have clear definitions that distinguish between ordinary and extraordinary medical expenses.

In addition, the Working Group makes recommendations as to **when** a parent should be responsible for the child's health insurance premium. These recommendations could easily be incorporated into state guidelines with out affecting **how** the child's health care costs are factored into the support order calculation. Recommendations 9 and 10 are cases in point.

- ✓ Recommendation 9 states that if the cost of providing private health insurance coverage exceeds five percent of the parent's gross income, that is an unreasonable cost. In implementing this recommendation, say that for either parent, the health insurance coverage exceeds five percent of the parent's gross income, hence neither parent would be responsible for private health insurance coverage. The child support calculation would include \$0 as the health insurance premium paid by both parents. In other words, the calculation is the same as when a parent pays a health insurance premium but the amount inserted into the calculation is different.
- ✓ Recommendation 10 states no parent whose net income is at or below 133 percent of the Federal poverty level should be ordered to provide private insurance. Similar to Recommendation 9 this affects **when** a parent is ordered to provide private insurance but does not affect the equation for calculating the child support order (i.e. **the how**).

In conclusion, the Michigan Formula, as well as most Income Shares guidelines, already implement Recommendations 2 and 22 of the Medical Child Support Group affecting **how** the child support order is calculated, so this is not a major concern of this study.



ADJUSTMENTS FOR LOW-INCOME NONCUSTODIAL PARENTS

Michigan, like most Income Shares states, provides an adjustment for low-income noncustodial parents. These adjustments are out of recognition that many low-income noncustodial parents do not have enough after-tax income after payment of their child support obligation to allow them a subsistence standard of living.⁵⁸ For example, consider a case where the noncustodial parent works full-time at Federal minimum wage (\$5.15 per hour). The noncustodial parent's after-tax income would be \$174 per week, which is only \$4 per week more than the 2002 Federal poverty guidelines (\$170 per week). In other words, if the child support order is set at more than \$4 per week, the noncustodial parent would be impoverished.

The treatment of low-income noncustodial parents varies among states, but generally consists of two components:

- ✓ a minimum order amount for incomes below a state-determined threshold; and,
- ✓ a formula for adjusting formulas for a noncustodial parent's income above the minimum order income threshold.

Michigan is unusual in that it has three components.⁵⁹

1. If the noncustodial parent's income is \$161 per week (the 2000 Federal poverty guidelines for one person) or less, the support order is
 - a. 10 percent of the noncustodial parent's income
 - b. plus the health care supplement
 - c. decreased by one percent for every additional \$100 of custodial parent net income.
2. If the noncustodial parent's income is \$161 per week or less, and the amount from part 1a and 1c results in less than \$5 per week, the support order is \$5 per week plus the health care supplement.

⁵⁸ There is some confusion as to whether the Federal poverty levels apply to gross or after-tax income. This is clarified by Gordon Fisher, "The Development and History of the U.S. Poverty Thresholds: A Brief Overview," *Newsletter of the Government Statistics Section and the Social Statistics Section of the American Statistical Association*, (Winter 1997). Gordon clarifies that the Federal poverty levels are calculated based on after-tax income. Yet, the poverty levels have been applied to gross income in some studies since the income data was limited to gross income. Gordon clarifies that applying the Federal poverty levels to these gross incomes underestimates poverty.

⁵⁹ This is not as tedious as a calculation as it sounds since it is already calculated in the schedule tables that appear in Appendix C of the Michigan Formula and there is an automated Michigan guidelines calculator available from the Internet.

3. In low-income cases where the noncustodial parent earns more than \$161 per week, the support amount is the lesser of:
 - a. the formula applicable to mid to high income ranges; and,
 - b. the difference between the noncustodial parent's net income and \$161 per week plus the support amount that the noncustodial parent would pay if his net income was \$161 per week.

Minimum Orders

As evident in Exhibit V-5, most states set a minimum order of \$50 per month if the noncustodial parent's income is below a state-determined threshold. The only states that have formulas below their income threshold are California, Michigan and Montana. Also evident in Exhibit V-5 is that the income threshold is typically below or near the Federal poverty level for one person in the year when the guidelines were developed or last updated.

STATE	Minimum Order Amount	Income Threshold for Applying Minimum Order Amount	Adjustment for Low Income Above Minimum Order Threshold
Alabama	discretion	\$550/mo (\$127/wk) gross	SSR test (1986 poverty level)
Alaska	\$50/mo	Federal poverty level	none
Arizona	discretion	\$710/mo (\$164/wk) gross	SSR test (rounded-down of 2000 poverty level)
Arkansas	discretion	\$100/wk	none
California	not addressed	\$1,000/mo (\$433/wk) net	formula
Colorado ^b	\$20 - \$50/mo	\$400/mo (\$92/wk) gross	SSR test (1986 poverty level)
Connecticut	\$1/wk	\$10/wk net	lowered percentages in tables
Delaware	Varies with the number of children, starts at \$65/mo	\$750/mo (\$173/wk) net	SSR test (\$750 net)
Dist. of Columbia	\$50/mo	\$625/mo gross	none
Florida	discretion	\$650/mo (\$150/wk) net	SSR test (1992 poverty level)
Georgia	not specified		none
Hawaii	\$50/mo	\$743/mo (\$172/wk) net	SSR test (Hawaii poverty level)
Idaho	\$50/mo per child	\$800/mo (\$185/wk) gross	none
Illinois	not specified		none
Indiana	Discretion	\$100/wk gross	Lowered Amounts in Schedule
Iowa	varies with the number of children, starts at \$50	\$500/mo (\$115/wk) net	Lowered Percentages applied
Kansas		\$50/mo (\$12/wk) gross	SSR test (amount unknown)
Kentucky	\$60	\$100 (\$23/wk) net	SSR test (1986 poverty level)
Louisiana		\$600 (\$138/wk) gross	SSR test (1991 poverty level)
Maine	varies with number of children	\$1050/mo (\$242/wk) gross	SSR test (150% of 1999 poverty level)
Maryland	\$20 - \$50	\$600 (\$138/wk) gross	SSR test (1986 poverty level)



Table V-5
Low-Income Adjustments in Child Support Guidelines^a

STATE	Minimum Order Amount	Income Threshold for Applying Minimum Order Amount	Adjustment for Low Income Above Minimum Order Threshold
Massachusetts	\$50	\$541 (\$125/wk) gross	Lowered Percentages applied
Michigan	Formula starting with 10% of net income	\$696 (\$161/wk) net	SSR test (2000 poverty level)
Minnesota	Discretion	\$550 (\$127/wk) net	Lowered Percentages applied
Mississippi	Discretion	\$417 (\$96/wk) gross	none
Missouri	\$20 - \$50	\$800 (\$185/wk) gross	SSR test (1997 poverty level)
Montana	Formula	130% of Federal poverty level	SSR test (130% of 2002 poverty level)
Nebraska	\$50	\$650 (\$150/wk) net	SSR test (2000 poverty level)
Nevada	not specified		none
New Hampshire	\$50	\$658 (\$152/wk) gross	SSR test (1997 poverty level)
New Jersey	\$22	105% poverty level	SSR test (105% of 2002 poverty level)
New Mexico	Varies with the number of children, starts at \$100	\$800 (\$185/wk) gross	SSR test (1994 poverty level)
New York	\$50	135% poverty level	SSR test (135% of 2002 poverty level)
North Carolina	\$50	\$800 (\$185/wk) gross	SSR test (1997 poverty level)
North Dakota	Varies with the number of children, starts at \$14	\$100 (\$23/wk) net	none
Ohio		\$500 (\$115/wk) gross	SSR test (1992 poverty level)
Oklahoma	\$50	\$650 (\$150/wk) gross	equalization of hardship
Oregon	\$50	\$850 (\$196/wk) gross	SSR test (1997 poverty level)
Pennsylvania	Varies with the number of children, starts at \$50	\$550 (\$127/wk) net	SSR test (round-down of 1997 poverty level)
Rhode Island	\$20 - \$50	\$600 (\$138/wk) gross	SSR test (1997 poverty level)
South Carolina	\$50	\$600 (\$138/wk) gross	SSR (about 85% of 1993 poverty level)
South Dakota	Varies with the number of children, starts at \$100	\$800 (\$185/wk) net	equalization of hardship
Tennessee	not specified		none
Texas	not specified		none
Utah	\$20	\$650 (\$150/wk) gross	Additional table for low income (@\$625 gross)
Vermont	\$50	\$816 (\$188/wk) net	SSR (\$816 net) adjustment in worksheet
Virginia	\$65	\$600 (\$138/wk) gross	SSR (\$458 net) incorporated into shaded schedule
Washington	\$25 per child	\$600 (\$138/wk) net	none
West Virginia	\$50	\$550 (\$127/wk) gross	SSR (\$550 net) adjustment in worksheet
Wisconsin	not specified		none
Wyoming	\$50	\$732 (\$169/wk) net	none
Total Number of States	Dollar or formula amt = 34	Threshold identified = 45	SSR test = 28
	Not addressed = 13	No threshold = 6	Other = 9
	Discretion = 4		Not Addressed = 14

^aMonthly amounts are displayed because most states child support guidelines are based on monthly amounts rather than weekly amounts.

^bThe State of Colorado legislature just passed a bill that will revise its adjustment for low-income noncustodial parents. It will rely on an equalization of hardship approach and increase the minimum order amounts to \$50 per month and the income threshold for minimum orders to \$850 per month.

Exhibit V-5 shows that only a handful of states vary the minimum order amount for the number of children (e.g., Iowa, Maine, New Mexico, North Dakota, Pennsylvania, and South Dakota). Even fewer states consider the custodial parent's income for this lowest income group.

Since most states will impute income if the noncustodial parent is unemployed or underemployed but able to work, minimum order amounts are rarely applied to able-bodied noncustodial parents. In effect, minimum order amounts are typically applied to disabled or institutionalized noncustodial parents or noncustodial parents who are minors. In these situations, the child support order is set at a token amount to symbolize that the noncustodial parent has a financial obligation to the child. A case in point is Iowa. In defending why its minimum order amounts are not set at zero dollars, the Iowa Guidelines states, "It is the policy of this state that every parent contribute to the support of his or her children..."

Low-Income Adjustments above Minimum-Order Incomes

As evident in Exhibit V-5, many states have an additional adjustment for low-income noncustodial parents with incomes just above the threshold for applying the minimum order amount. These adjustments typically involve a "self support reserve," which is an amount defined by the State to reflect a subsistence level of income. Most states tie it to the poverty level for one person at the time the guidelines were developed or last reviewed. Michigan updates its annually to include the most recent Federal poverty guidelines for one person. It is currently \$161 per week, which is the 2000 poverty level for one person.

A handful of states set it above the poverty level (e.g., New York and Vermont). Another handful of states set it consciously below the poverty level (e.g., West Virginia and South Carolina). In part, the rationale of setting it below or above the poverty level relates to the perceived cost of living in a particular state. Some states also consider the income eligibility requirements for State public assistance programs available to custodial parents. For instance, if the income eligibility criteria is 85 percent of the poverty level for the custodial parent family, the self support reserve in that state may be set at 85 percent of the poverty level.

Self Support Reserve Test

A self support reserve test is employed by Michigan and most states with a low-income adjustment for noncustodial parents with incomes above the minimum-order threshold. The basic self support reserve test involves making two calculations and setting the support order at the lower of the two results.

1. one calculation using a straight application of the guidelines
2. the other calculation is the difference between the noncustodial parent's after-tax income and a self support reserve

Some states modify the second calculation. For example, Michigan takes the difference between the noncustodial parent's after-tax income and the self support reserve and adds it to what the support amount would be if the noncustodial parent's net income was \$161 per week. Other states (e.g., North Carolina and South Carolina) reduce it by a percentage (5-10 %), so that every additional dollar in after-tax income does not go to the child support order. This is to maintain incentives to earn more.⁶⁰

Add-ons for child care expenses, medical expenses and other costs. Another factor some states have considered is whether to include add-ons for child care and the child's extraordinary medical expenses before or after the self support reserve test. States are mixed on this. Some states believe it important to maintain the integrity of the self support reserve, so conduct the test after add-ons are considered. Other states recognize that the child care and the child's extraordinary medical expenses must be either the responsibility of both parents or the custodial parent, hence conduct the self support reserve test prior to the inclusions of add-ons.

Phase-out of the Self Support Reserve Test. In Michigan and other states that use the self support reserve test, the adjustment gradually phases out because eventually the support order calculated by the normal method is lower than the difference between the noncustodial parent's after-tax income and the self support reserve.

How the Self Support Reserve is Incorporated? The self support reserve test may be explicit in the worksheet (e.g., Arizona, Vermont, and Oregon) or invisibly incorporated into the child support schedule (e.g., Alabama and Missouri). The adjustment is invisible in the Michigan Child Support Schedules provided in Appendix C of *Michigan Child Support Formula Manual*, yet the formula is described in great detail in other parts of the *Manual*.

Equalization of Hardship Method

Recently, a few states (e.g., Colorado, Oklahoma and South Dakota) have moved away from the self support reserve test because it prioritizes the noncustodial parent's needs and ignores that the custodial family may also be low income. Alternatively, these states have

⁶⁰ There are sections of the Michigan Schedule where a \$10 increase in the noncustodial parent's net income results in a \$10 increase in the child support order. They occur near noncustodial parent net incomes of \$200 per week but it varies depending on the number of children and the custodial parent's net income.

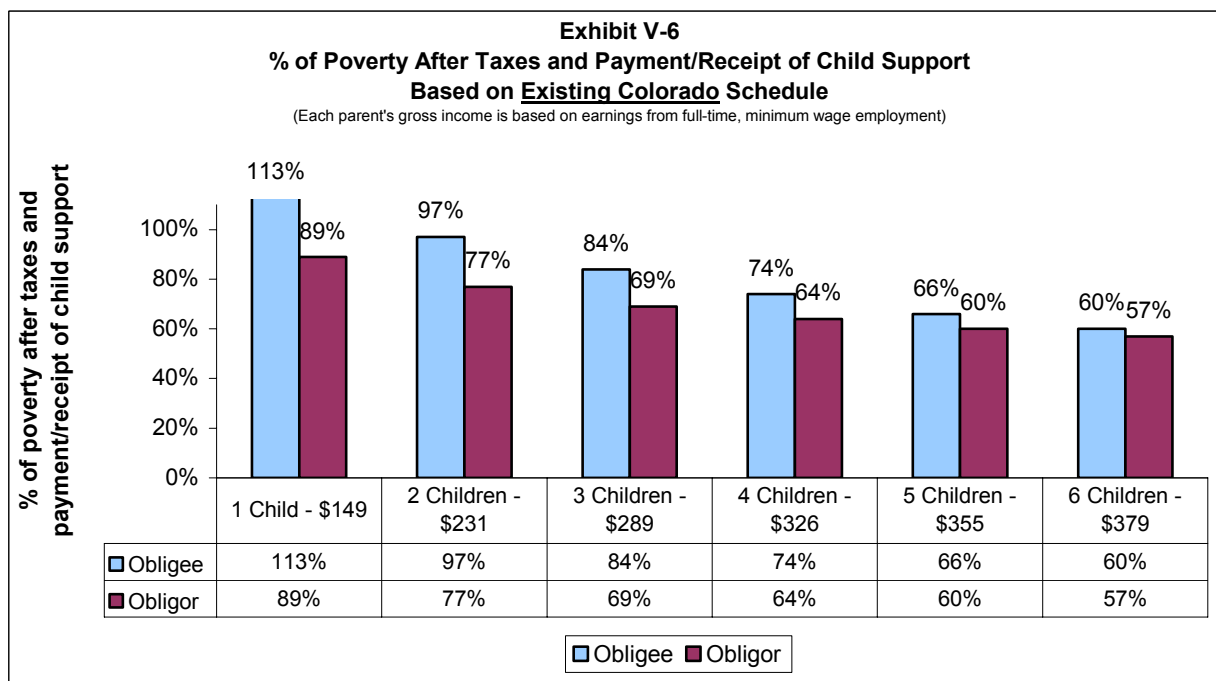
looked at the after-tax income of each parent relative to his/her poverty level for his/her household size. The comparison starts with the assumption that both parents have earnings equivalent to those from full-time employment at the Federal minimum wage (\$5.15 per hour). This is used because some states presume if a parent— this applies to the noncustodial as well as the custodial parent— is able to work, they should be able to at least work full-time at minimum wage.

To illustrate how the equalization of hardship adjustment works, we rely on information provided by the Colorado Child Support Commission.⁶¹ Exhibit V-6 displays what each parent's after-tax, after-payment/receipt of child support income relative to poverty was for the noncustodial parent and the custodial family based on the existing Colorado Schedule. The following assumptions are made in calculating Exhibit V-6.

- ✓ Support orders are based on monthly amounts since this is what Colorado does.
- ✓ The self support reserve is \$447 per month. (This was the amount of the self support reserve in effect in Colorado when the analysis was conducted.)
- ✓ Both parents work full-time (40 hours per week) at Federal minimum wage at \$5.15 per hour.
- ✓ The child support order is determined using the Colorado Guidelines in effect in 2001. There are no additional adjustments for child care expenses, health insurance, the child's medical expenses or another factor. Ordinary medical expenses are incorporated into the Colorado Schedule.
- ✓ The noncustodial parent's after-tax income is calculated using employer withholding formulas for Federal, State of Colorado income tax and FICA assuming single-filing status.
- ✓ The custodial parent's after-tax income is calculated using employer withholding formulas for Federal, State of Colorado income tax and FICA assuming the custodial parent files as head of household and claims the children as exemptions. The Earned Income Tax Credit (EITC) is applied using the "Advanced EITC" formula provided in the employer withholding guide.
- ✓ The noncustodial parent's poverty level is based on the 2001 Federal poverty guidelines for one person (\$716 per month). The year 2001 is used because this is when Colorado conducted the analysis.
- ✓ The custodial parent's poverty level is based on the number of children plus the custodial parent (e.g., a 3-child household would use the poverty level for four people). 2001 Federal poverty guidelines are also used.

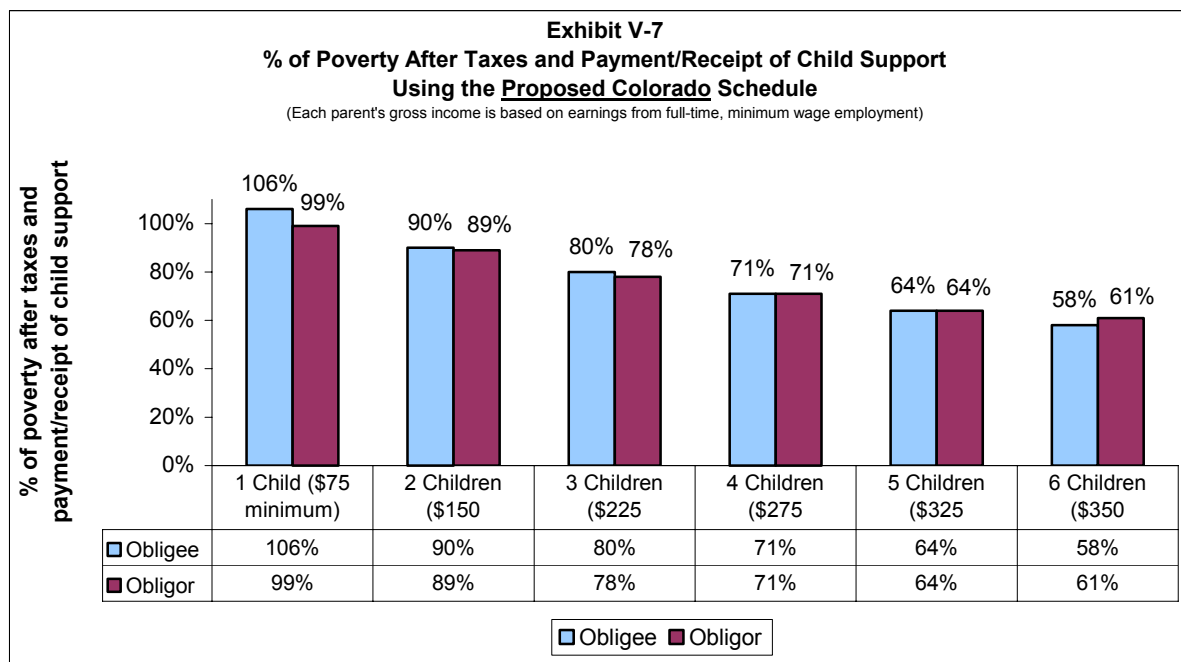
⁶¹ State of Colorado Child Support Commission, *State of Colorado Child Support Commission Report*, Denver, Colorado (December 2001).

As is evident in Exhibit V-6, the custodial family has an after-tax, after-payment of child support income of 113 percent of the poverty level if there is one child; 97 percent of the poverty level if there are two children; and, 84 percent of the poverty level if there are three children. In contrast, the noncustodial parent has less income relative to poverty. The noncustodial parent's after-tax and after-payment of child support income is 89 percent of the poverty level if there is one child; 77 percent of the poverty level if there are two children; and, 69 percent of the poverty level if there are three children. The existing Colorado order amounts are also shown in Exhibit V-6. For example, they are \$149 per month (\$34 per week) for one child; \$231 per month (\$53 per week) for two children; and \$289 per month (\$67 per week) for three children.



A similar type of analysis was conducted in Oklahoma and South Dakota. The ultimate question became what amounts of child support would equalize each household's after-tax, after-payment/receipt of child support income relative to poverty? To answer this question, these states started with each parent's after-tax income from full-time minimum wage relative to poverty, then backed out what amount of child support would have to be for the parents' ratios to be equal. The answer to Colorado is shown in Exhibit V-7. Specifically, it shows that each household's after-tax, after-payment/receipt of child support income relative to the poverty level is almost equalized when the child support is set at: \$75 per month (\$17 per week) for one child; \$150 per month (\$35 per week) for two children; and, \$225 per month (\$52 per week) for three children. The amounts in Oklahoma and South Dakota were somewhat different due to differences in tax structure and the poverty level in

effect in the years the analyses were conducted. Nonetheless, this type of analysis formed the basis of order amounts when the noncustodial parent's income is at minimum wage for the proposed Colorado Schedule and the existing Oklahoma and South Dakota Schedules. For incomes below minimum wage, a minimum support order amount is to be applied. For incomes above minimum wage, the normal schedule is phased in.



Exhibits V-8 and V-9 display the comparable exhibits for Michigan with a few differences in assumptions.

- ✓ Support order amounts are based on weekly amounts since this is what Michigan uses.
- ✓ Both parents work full-time (40 hours per week) at Federal minimum wage at \$5.15 per hour.
- ✓ The child support order is determined using the existing Michigan Formula. It includes the low-income adjustment and health care supplement. There are no additional adjustments for child care expenses, health insurance, the child's medical expenses or another factor.
- ✓ The noncustodial parent's after-tax income is calculated using year-end Federal, State of Michigan income tax and FICA assuming single-filing status.⁶²
- ✓ The custodial parent's after-tax income is calculated also using year-end formulas for Federal, State of Colorado income tax and FICA assuming the custodial parent files as

⁶² Year-end taxes are used because Section II.H of the *Michigan Child Support Formula Manual 2001* states that net income should be determined from actual tax returns whenever possible.

head of household and claims the children as exemptions. However, as discussed earlier, EITC is not included because it is considered a means-tested program under the Michigan Formula.

- ✓ The noncustodial parent's poverty level is based on the current (2002) Federal poverty guidelines for one person.
- ✓ The custodial parent's poverty level is based on the number of children plus the custodial parent (e.g., a 3-child household would use the poverty level for four people). 2002 Federal poverty guidelines are also used.

Exhibit V-8 shows that the custodial family has an after-tax, after-payment of child support income in Michigan of 97 percent of the poverty level if there is one child; 79 percent of the poverty level if there are two children; and, 66 percent of the poverty level if there are three children. The noncustodial parent's after-tax and after-payment of child support income in Michigan is 81 percent of the poverty level if there is one child; 80 percent of the poverty level if there are two children; and, 79 percent of the poverty level if there are three children.

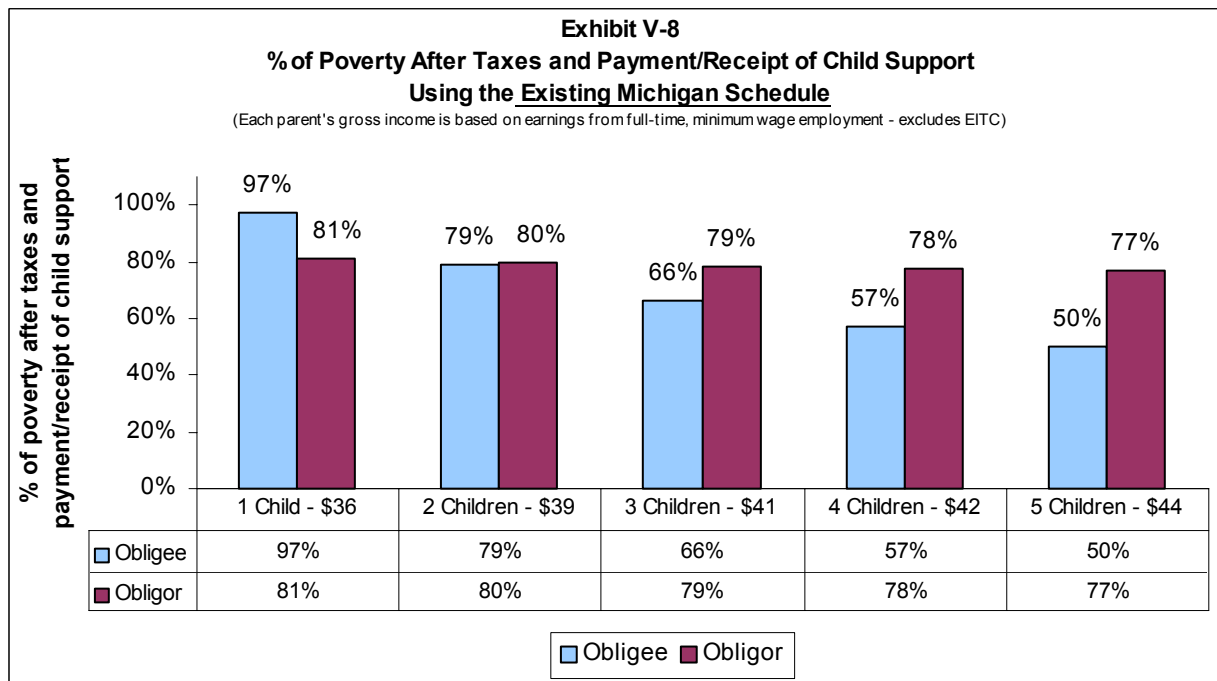
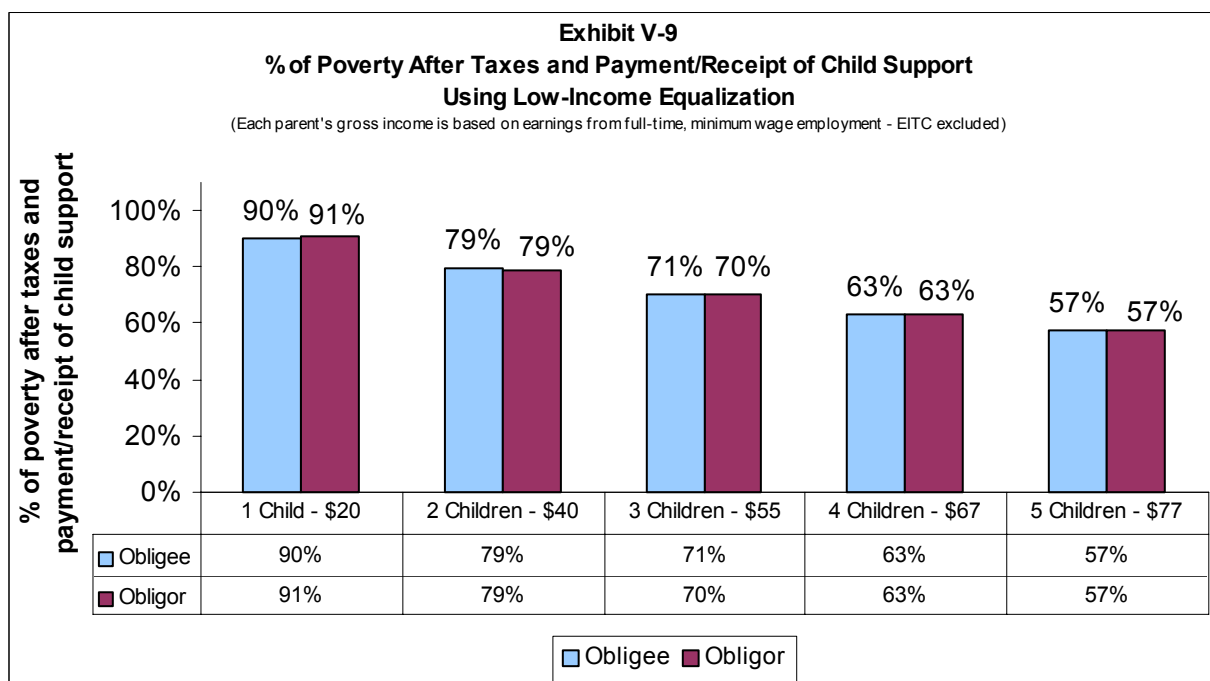


Exhibit V-9 shows that in Michigan each household's after-tax, after-payment/receipt of child support income relative to the poverty level is almost equalized when the child support is set at: \$20 per week for one child; \$40 per week for two children; \$55 per week for three children \$67 per week for four children; and, \$77 per week for five children.



HIGH-INCOME CASES

Michigan is one out of five Income Shares states that provide a child support formula for an infinite amount of income. Most Income Shares States stop their child support schedules at parents' combined gross incomes of \$150,000 to \$200,000 per year. This is because the estimates of child-rearing expenditures cannot be developed for incomes beyond this level due to a small sample of high incomes in the Bureau of Labor Statistics Consumer Expenditure Survey (CEX). In fact, the most recent Betson estimates only go to parent's combined net incomes of \$125,000 per year.

Most Income Shares states that provide a formula beyond the highest amount in the Schedule extrapolate from the estimates of child-rearing expenditures. Florida, New Mexico, and West Virginia are cases in point. The criticism of extrapolation is that the same percentage is applied to combined annual incomes of \$201,000 as would be applied to \$2,000,000, when common sense tells us this is unrealistic. This is a particularly difficult issue in consideration of salaries of professional athletes and CEOs whose annual incomes could be well into the millions.

Indiana, the fifth Income Shares state to apply a formula to an infinite amount of income, uses another formula that involves a quadratic equation. The source is unclear.



Most Income Shares states specify that the order amount for combined incomes above the highest amount considered by the schedule is at court's discretion (e.g., Arizona and Colorado), but the highest amount in the schedule is to be used as a floor in the court's decision. A floor means that it is the lowest an order can be set at. An example of the wording of this type of high-income provision is provided below.

Example of High-Income Provision

Where combined adjusted gross income exceeds the uppermost levels of the guideline, the judge may use discretion to determine child support except that the presumptive basic child support obligation shall not be less than it would be based on the highest amount of adjusted gross income considered in the schedule.

OTHER MINOR CHILDREN AND STEPCHILDREN

The Michigan Formula specifies a percentage reduction to income if there are other minor children or stepchildren. The percentage of income reduction for biological or legally adopted children from other relationships living in the parent's household is reduced by a percentage provided by one table in the *Formula Manual* and the percentage of reduction for stepchildren is provided in another table in the *Formula Manual*.

Other Minor Children

The percentage reduction for other minor children is derived by taking the average base support percentage for that particular number of children— say one child, which would be 20.8%— and dividing it by two since there are two parents responsible for the other child (i.e., the party subject to the order being determined and the other parent of that child). In this one-child case, income would be reduced by 10.4 percent [$20.8\% / 2 = 10.4\%$]. Using simple algebra, this could also be calculated by multiplying the parent's income by 89.6 percent [$100\% - 10.4\% = 89.6\%$], which is the amount that is shown in the *Formula Manual*.

Most states (21 states) with adjustments for other minor children calculate a “dummy order” for the other minor children using the income of the parent of the other children only. In general, this method involves calculating a hypothetical child support amount for the noncustodial parent's additional dependents. The result is then subtracted from the parent's gross income, which in turn is used to calculate the child support amount due to the child(ren) in question. It is noteworthy, however, that there is some variation among states that utilize this method. For example, a few states (e.g., North Carolina and Rhode Island) only subtract a portion of the hypothetical child support obligation from the parent's gross

income. Most of the states use 25 percent, but a few states use 50 percent. In effect, this is what Michigan is doing with its percentage reduction. This adjustment is made to equalize treatment among all sets of children.

Ohio and Iowa exemplify unique approaches. Ohio deducts an amount equal to the Federal tax exemption for those dependents from the person's income, and Iowa deducts a set dollar amount, based on the number of children, from the obligor's income. Indiana is the only state to use an approach similar to Michigan.

Stepchildren

Michigan's method for adjusting for stepchildren is similar to that used to adjust for other minor children. The percentage reduction for stepchildren is calculated by taking the average percentages applied to arrive at the child support order and dividing it by four.⁶³ It is not clear why the amount is divided by four except it would be half the amount of the percentage reduction for other minor children. We know of no other state that makes a similar calculation. In fact, most states do not make adjustments for stepchildren unless they are the legal responsibility of the parent subject to the child support order that is being determined. The adjustment is permissible in Michigan if both parents of the stepchildren are unable to provide financial support and the stepparent makes substantial financial contributions to the stepchildren.

ADJUSTMENTS FOR SHARED-PARENTING TIME

The Michigan Formula currently provides two adjustments for shared parenting time:

- ✓ a parenting time abatement which is available if the child spends six consecutive overnights with the noncustodial parent; and,
- ✓ the other is for shared economic responsibility, which is when the child spends at least 128 overnights per year with both parents.

The adjustments are mutually exclusive; that is, one cannot be received on top of the other.

These formulas should not be affected by a change in the base schedule, since they do not define the parameters of these formulas.

⁶³ An example is provided in the *Michigan Child Support Formula Manual* on page 13. Since the average support percentage for one child is 20.8%, it is divided by 4 to get 5.2%. In turn, the parent's income would be reduced by 5.2%, which is the same thing as multiplying the parent's income by 94.8% [100%-5.2% = 94.8%].



Shared-Parenting Time Adjustments in Other States

Almost a dozen states have a parenting time abatement. Most of these states abate 50 percent, the same percentage abated by the Michigan Formula. About half of the states have an adjustment for shared physical custody.

Thresholds for Shared Economic Responsibility

The threshold for applying the adjustment ranges in other states from 20 to 50 percent timesharing. (Michigan's 128 overnights is 35% timesharing). Setting the threshold for the shared-parenting adjustment is a difficult decision because there is no empirical evidence indicating what the threshold should be. Consequentially, the threshold is a policy decision. States typically take into consideration the following factors when deciding what the shared-parenting threshold should be.

- ✓ *Changing role of fathers.* Most states recognize that fathers today are more involved with their children than they were several decades ago. Further, they recognize that it is generally healthy for the child to have contact with both parents. In response to this, more states that did not previously have a formula to adjust for shared-parenting time are adopting one. For example, we know of three states that have adopted shared-parenting time formulas in the last five years alone.
- ✓ *Standard visitation amounts.* A few states have set the threshold above standard visitation amounts, so the adjustment would not apply to most cases only those with extraordinary time sharing.
- ✓ *The negotiation of time for money.* Many states believe that if they set the threshold too low, there is more likely to be the gaming of time and money. Specifically, the noncustodial parent may want more time with the child to reduce the support order amount and the custodial parents may not want the noncustodial parent to have more time with the child because it will reduce the support order amount. One solution a few states have taken is to not grant the adjustment unless the shared-parenting arrangement is part of a court order or parenting plan. Missouri took a different approach. They make a small adjustment for low levels of time sharing and any adjustment for high levels of time sharing is considered a deviation. The rationale is to prevent gaming at high levels where the economic ramifications are larger.
- ✓ *Cliff effects.* One reason that parents may try to negotiate time and money is if there is a precipitous decrease in the order amount at the point where the shared-parenting time adjustment begins to apply. Generally, higher thresholds result in higher cliff effects and cliff effects are more likely to be larger when the parents' incomes are similar rather than when there are large income disparities.

- ✓ *Duplicated expenses.* Most states with shared-parenting time adjustments recognize that in cases where the child spends time with both parents, both parents incur child-rearing costs. There is not a dollar for dollar offset, that is, the dollar spent by the father while the children are with him does not necessarily reduce child-rearing costs incurred by the mother by a dollar. As a result, most states with formulas do not offset a dollar for dollar. Some states (e.g., New Jersey) take it a step further and do not grant any offset if the custodial household's income is not well above the poverty level.

Shared Economic Responsibility Formulas

Michigan's formula for shared economic responsibility is unique. No other state uses a similar formula. Most states use a cross credit approach, which involves calculating support for each parent assuming that the parent is the noncustodial parent and the other parent is the custodial parent and then weighing those amounts for the time with each parent and then finally offsetting them against each other. Recently, a few states have adapted modified versions of a shared-parenting time adjustment developed by Dr. David Betson (i.e., New Jersey, Arizona, and Missouri). Nonetheless, this formula has been modified so much that it now barely resembles what Dr. Betson originally proposed. Examples of these formulas are provided in Appendix III. It also includes graphical and tabular comparisons of: the cross credit; Dr. Betson's formula; the existing Michigan formula; and the proposed "cubed formula" presented at the recent Michigan Formula Subcommittee meeting (March 12, 2002). The proposed cubed formula would lower the threshold to 25 percent time sharing.

ANNUAL UPDATING METHOD

Michigan currently updates its child support formula annually for the following two factors.

- ✓ The Federal poverty guideline for one person, which is considered in the low-income adjustment. The US Department of Health and Human Services releases new poverty guidelines in about February of each year.
- ✓ The income brackets considered in the calculation of base support. The income brackets are updated for changes in the Consumer Price Index for urban consumers in the Detroit metropolitan area from August of each year. The amounts are calculated and published by the Federal Bureau of Labor Statistics to track inflation. This effectively increases the base support for each level of combined net income every year.

It does not appear that the health care supplement, which appears in Table V of the *Michigan Child Support Formula Manual* has ever been updated. It currently ranges from \$3 per week for one child up to \$10.50 per week for five or more children.



Annual Update of Income Brackets

To illustrate how the income brackets have been updated for inflation over the years, Exhibit V-10 displays the original schedule developed in 1986 (which considers December 1985 price levels) and the existing schedule (which considers August 2000 price levels) for five or more children. Note that the weekly family income amounts (shown in Columns 1 and 2) have changed from the original to existing Schedule, but the percentage allocated to base child support (shown in Columns 3 and 4) has not changed. Column 5 shows that the income brackets have been consistently increased by 58 percent. This reflects the changes in the price level from when the original schedule was developed to that used in the current schedule.⁶⁴

Exhibit V-10 Changes in the Income Brackets from Michigan's Original to Existing Schedule (Five or More Children)				
Column 1 Weekly Family Income (original Schedule)	Column 2 Weekly Family Income (existing Schedule)	Column 3 Percentage Allocated (original Schedule)	Column 4 Percentage Allocated (existing Schedule)	Column 5 Percentage Increase in Income [(Col. 2/ Col 1) – 100%]
\$137	\$216	60.8%	60.8%	58%
\$220	\$347	59.5%	59.5%	58%
\$300	\$473	55.0%	55.0%	58%
\$385	\$607	51.2%	51.2%	58%
\$500	\$788	48.0%	48.0%	58%
\$710	\$1,119	44.4%	44.4%	58%
\$875	\$1,379	40.7%	40.7%	58%
\$1100	\$1,733	37.3%	37.3%	58%

In deciding what index to use to update the income brackets, SCAO contracted with two economics professors in 1988.⁶⁵ The professors considered several indexes— some which no longer exist— and concluded that the changes in the CPI-U for the Detroit metropolitan area would be the most appropriate.⁶⁶

There is not a CPI specific to rural consumers or Michigan as a whole.⁶⁷ The next best alternative considered by the professors was the CPI-U for the nation. The professors found that the indexes for the nation and Detroit generally move together over time, but the

⁶⁴ The actual increase in the CPI-U for the Detroit Metropolitan area was 56.5% from December 1985 (when the original schedule was developed) and August 2000 (when the current schedule was developed). The negligible difference may result from round-off errors over the years or the conversion from the CPI-U for the US to Detroit.

⁶⁵ Professors Edward Montgomery and Ronald L. Tracy, *Cost of Living Update to the Michigan Child Support Guideline Table*, Michigan State University and Oakland University (1988).

⁶⁶ The CPI-U for Detroit actually covers the Detroit-Ann Arbor-Flint metropolitan area.

⁶⁷ The CPI-U for the US covers 87% of the nation's population. It is unknown what proportion of Michigan's population is covered by the CPI-U for Detroit.

Detroit index was probably more reflective of the Michigan economy. This is why they recommended that the CPI-U for Detroit be used.

Exhibit V-11 displays the percentage increases among other indexes that may have been used to update the income brackets. Most of these are indexes that were also considered in the earlier study that are still tracked today. Exhibit V-11 shows the percentage increase in each of these indexes from August 1988 (when the economic professors first updated the schedule) to August 2000 (when the schedule was last updated).⁶⁸

- ✓ The CPI-U for Detroit indicates a 45 percent increase in price levels.
- ✓ The CPI-U for the US also indicates a 45 percent increase in price levels.
- ✓ The CPI-U for the Midwest indicates a 44 percent increase in price levels. The Midwest includes Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.
- ✓ The CPI-W is for urban wage earners and clerical workers. It considers a subset of the population considered by the CPI-U. It shows a 44 percent increase in price levels.
- ✓ Personal Income consists of all earnings at work plus interest, rent, dividends, and transfer payments. Personal Income per Capita is derived by dividing Michigan's total personal income by the population of Michigan. Exhibit V-11 shows a 69 percent increase in personal income per capita.
- ✓ Disposable Personal Income is personal income minus income taxes. Exhibit V-11 shows a 44 percent increase in Disposable Personal Income Per Capita.

The economic professors were critical of using personal income measurements because some of the increases in income are realized from more females working outside the home. This was a trend evidenced in the 1970s and 1980s, but the increase also continued in the 1990s. Nonetheless, it is interesting that the Disposable Personal Income Per Capita has increased at rate (44%) similar to that of the CPI-U for Detroit (45%).

Exhibit V-11 Percentage Increase in Various Indices from 1988 to 2000					
CPI-U (Detroit)	CPI-U (US)	CPI-U (Midwest)	CPI-W (US)	Personal Income Per Capita	Disposable Personal Income Per Capita
45%	45%	44%	44%	69%	44%

⁶⁸ This is the time period considered for the CPI. The personal income measurements are based on the calendar year. They are calculated by the Federal Bureau of Economic Analysis.



Health Care Support Supplement

It is not clear why the amounts for the health care supplement have never been updated, particularly since health care expenses have increased by about 120 percent since the original Michigan Schedule was updated.⁶⁹ Of larger concern is the source of these amounts. We could find no documentation of how the weekly amounts for the health care support supplement were derived. It is difficult to address how they could be updated without knowing the original source. Further, as discussed earlier, there are other issues concerning how this amount is added to the base support.

Updating in Other States

Few states provide an annual method of updating their guidelines. The majority of states do not have legal authority to do so. In part, this reflects that most states (27 states) have legislated guidelines. The Michigan Formula is updated annually by the State Court Administrative Office to reflect changes in the price level and to update the Federal poverty guideline. The other states that have a process for annually updating their guidelines are Montana, Minnesota (updated every other year) and Nevada.

- ✓ Each year, the state of Montana updates the personal allowance for each parent, the primary support allowance, the allowance for other children and the long distance parenting adjustment (IRS mileage rate). Montana's child support guidelines are promulgated and updated under the authority of MCA §40-5-209 by the Department of Public Health and Human Services. [See Administrative Rules of Montana, Title 37, Chapter 62, Subchapter 1]
- ✓ The state of Nevada updates the presumptive maximum amount of support per month per child, effective July 1st of every year, corresponding to the increase or decrease in the Consumer Price Index (All Items) published by the Department of Labor. Under N.R.S. §125B.070, the Office of Court Administrator is responsible for determining the amount of the increase or decrease, and notifying each district court of the adjusted amounts.
- ✓ In Minnesota, the maximum income for application of the guidelines is adjusted on July 1st of every even-numbered year. The State Court Administrator is charged with the responsibility of updating the maximum amount, based on changes in the cost of living, and notifying the courts and the public under M.S.A. §518.551, Subd. 5(k).

⁶⁹ This is based on the change in the CPI-U for medical care using the U.S. City Average from the Bureau of Labor Statistics from December 1986 to December 2001.